

# Senate Budget & Fiscal Review



Subcommittee No. 3  
on  
Health, Human Services, Labor, and Veterans Affairs

**Senator Wesley Chesbro, Chair**  
**Senator Ray N. Haynes**  
**Senator Deborah Ortiz**

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**April 8, 2002**  
**1:30 P.M.**  
**ROOM 112**  
(Diane Van Maren, Consultant)

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<u><i>Item</i></u>	<u><i>Description</i></u>
4300	Department of Developmental Services, including <ul style="list-style-type: none"><li>• Developmental Centers</li><li>• Community-Based Issues</li></ul>

**PLEASE NOTE:** Please refer to the Senate Daily File for the dates and times of future Subcommittee hearings regarding the Department of Developmental Services.

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## **I. 4300 Department of Developmental Services**

### **A. OVERALL BACKGROUND**

#### **Purpose and Description of the Department**

The Department of Developmental Services (DDS) administers services in the community **through 21 Regional Centers and in state Developmental Centers for persons with developmental disabilities according to the provisions of the Lanterman Developmental Disabilities Services Act.**

To be eligible for services, the disability must begin before the consumer's 18<sup>th</sup> birthday, be expected to continue indefinitely, present a significant disability and be attributable to certain medical conditions, such as mental retardation, autism, and cerebral palsy.

Eligibility to receive both case management and community services does not depend on a financial need that is based on income level or assets. As noted by the Legislative Analyst's Office, generally, services are provided without any requirement that those benefiting from the services, and who have the ability to contribute, pay a share of cost.

**The purpose of the department is to (1)** ensure that individuals receive needed services; **(2)** ensure the optimal health, safety, and well-being of individuals served in the developmental disabilities system; **(3)** ensure that services provided by vendors, Regional Centers and the Developmental Centers are of high quality; **(4)** ensure the availability of a comprehensive array of appropriate services and supports to meet the needs of consumers and their families; **(5)** reduce the incidence and severity of developmental disabilities through the provision of appropriate prevention and early intervention service; and **(6)** ensure the services and supports are cost-effective for the state.

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### Overall Budget of the Department

The budget proposes total expenditures of almost \$2.9 billion (\$2.007 billion General Fund), for a *net* increase of \$131.2 million (\$128.2 million General Fund) over the revised 2001-02 budget, to provide services and supports to individuals with developmental disabilities living in the community or in state Developmental Centers.

Of this amount, about \$2.215 billion is for services provided in the community, \$624.8 million is for support of the state Developmental Centers, \$28.3 million is for state headquarters administration and \$496,000 is for state-mandated local programs.

<b>Summary of Expenditures</b>				
<b>(dollars in thousands)</b>	<b>2001-02</b>	<b>2002-03</b>	<b>\$ Change</b>	<b>% Change</b>
<b><i>Program Source</i></b>				
Community Services Program	\$2,075,520	\$2,215,477	\$139,957	6.7
Developmental Centers	\$624,739	\$624,785	(\$46)	
State Administration	\$36,996	\$28,258	(\$8,738)	23.6
State Mandated Local Program	\$524	\$496	(\$28)	-5.3
<b>Total, Program Source</b>	<b>\$2,737,779</b>	<b>\$2,869,016</b>	<b>\$131,237</b>	<b>4.8</b>
<b><i>Funding Source</i></b>				
General Fund	1,879,134	2,007,363	128,229	6.8
Federal Funds	47,604	48,153	549	1.1
Other Funds	7,449	4,549	(\$2,900)	-38.9
Reimbursements	803,592	808,951	5,359	0.6
<b>Total</b>	<b>\$2,737,779</b>	<b>\$2,869,016</b>	<b>\$131,237</b>	<b>4.8</b>

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## **B. ITEMS RECOMMENDED FOR CONSENT (Items 1 to 3)**

### **1. State Compensation Insurance Fund Master Agreement**

**Background and Governor's Proposed Budget:** The budget requests an increase of \$419,000 General Fund (\$4,000 for Headquarters and \$415,000 for the Developmental Centers) in accordance with the new three-year Master Agreement negotiated by the Department of Personnel Administration for the administration and payment of workers' compensation benefits.

The new Master Agreement includes a provision that requires each state agency to deposit an amount equal to one-eighth of the benefits provided during the preceding twelve months. This amount is to be adjusted annually and will be rolled over at the beginning of each new rating period. All state agencies covered by the Master Agreement are required to pay their fair share of service costs associated with workers' compensation administrative services provided by the State Compensation Insurance Fund (SCIF).

No issues have been raised regarding this item at this time.

### **2. Reduction to State Headquarters Support & Elimination of State Statute (See Hand Out for Language references)**

**Background and Governor's Proposed Budget:** Due to the difficult fiscal situation the DDS has identified 33 positions, for a total of \$2.7 million (\$2.5 million General Fund), to be eliminated.

The DDS states that they took a functional approach to identify what responsibilities would be eliminated or reduced as part of this effort. Among other things, areas identified for reduction include training, operating expenses and equipment, safety technical support, parental fee redeterminations, media production, conference committee planning, consumer rights complaint process, purchase of services review, regional center meetings, reduction of legislative activities, rate development and property inspection.

The DDS notes that the department is staffed over 12 percent lower than what was authorized in 1991-92 with far more responsibilities and mandates.

**As part of this proposal, the DDS is proposing to eliminate or amend certain existing statutory requirements. These are as follows:**

- **1. Eliminate Section 4847 of W&I Code that requires the DDS to annually coordinate a meeting within each Regional Center catchment area to have representatives from the DHS, Regional Centers, and local health facility providers to meet. (Analyst position at \$70,000).**

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- **2. Amend Section 4646** of W&I Code to change the review of individual program plans from an annual to a biennial process. (**Analyst position at \$70,000**).
  - **3. Eliminate Section 4731** of W&I Code regarding the Consumer Rights Complaint process. (**Half-time Staff Counsel \$29,000 annually**).

**Subcommittee Staff Recommendation:** It is recommended to **adopt the proposed reduction of \$2.7 million (\$2.5 million General Fund) and to eliminate Section 4847 of W&I Code (item 1, above).**

With respect to items 2 and 3 of the proposed language (Sections 4646 and 4731), it is suggested to discuss these two issues later in the agenda (Item 6 under the Community Based Services section) as stand alone items.

**Budget Issue:** Does the Subcommittee want to adopt the staff recommendation?

### **3. Life Quality Assessments—Reappropriation Language**

**Background:** The Organization of Boards on Developmental Disabilities (Area Boards) are mandated to conduct Life Quality Assessments on people with developmental disabilities living in out-of-home placements, supported living arrangements, or independent living arrangements no less than once every three years.

**As part of a three-year contract**, DDS is required to provide the Area Boards with a list of individuals eligible for Life Quality Assessment. These assessments are designed to coincide with the individual's triennial development of their Individual Program Plan (IPP). **As such, in order to assure that resources are available to meet the total number of individuals eligible over the contract period, any remaining funds from the current year need reappropriation for the budget year.** In this manner, the Area Boards can assure that individuals are served appropriately.

**Subcommittee Staff Recommendation:** In order to assure that resources are aligned appropriately, Subcommittee staff recommends the **adoption of reappropriation language**. This same language was contained in the Budget Act of 2000. The language is as follows:

4300-490 Reappropriation, DDS. Notwithstanding any other provision of law, as of June 30, 2002, the balances of the appropriations provided in the following citations are reappropriated for the purposes specified and shall be available for expenditure until June 30, 2003, unless otherwise stated.

(1) Item 4300-101-0001 (a) 10.10.010 and (b) 10.10.020, Budget Act of 2001 (Chapter 106, Statutes of 2001) for the Life Quality Assessment interagency agreement with the Organization of Area Boards on Developmental Disabilities.

**Budget Issue:** Does the Subcommittee want to adopt the recommendation?

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## **C. ITEMS FOR DISCUSSION—DEVELOPMENTAL CENTERS (DCs)**

### **OVERALL BACKGROUND**

State Developmental Centers (DCs) are fully licensed and federally certified as Medicaid providers via the California Department of Health Services. **They provide direct services which include the care and supervision of all residents on a 24-hour basis, supplemented with appropriate medical and dental care, health maintenance activities, assistance with activities of daily living and training.** Education programs at the DCs are also the responsibility of the DDS.

**The DDS operates five Developmental Centers (DCs)—Agnews, Fairview, Lanterman, Porterville and Sonoma. Porterville is unique in that it provides forensic services in a secure setting.**

In addition the department leases **Sierra Vista**, a 54-bed facility located in Yuba City, and **Canyon Springs**, a 63-bed facility located in Cathedral City. Both facilities provide services to individuals with severe behavioral challenges.

### **OVERALL PROPOSED BUDGET**

The budget proposes expenditures of **about \$624.8 million (\$346.3 million General Fund) to serve 3,636 residents who reside in the state developmental centers system. This reflects a caseload decrease of 50 residents** and a marginal net decrease in funds of \$46,000 as compared to the revised 2001-02 budget.

State operated facilities are entitled to payment for Intermediate Care Facility (ICF) services at actual allowable costs for services for individuals with developmental disabilities. Reimbursement levels for payment of services is based on rates developed by the DDS and approved by the DHS.

**These rates are specific to each DC** based on an approved rate development methodology that uses census data and the actual allowable costs for provision of appropriate residential and treatment services based on standards and guidelines. **According to DDS data, the average cost per person residing at a DC is about \$171,000 annually. This reflects an increase of well over 50 percent since the Budget Act of 1995.**

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## 1. Developmental Center Adjustments for Population

**Background:** Each year, the budget is adjusted to reflect direct care and non-level-of-care staffing requirements in order to meet resident needs and licensing requirements. These staffing adjustments are based on the projected number of individuals living at the DCs and their individual program needs based on the Client Developmental Evaluation Report (CDER) process.

The DC population is based on three components—admissions, placements from the DCs and deaths.

**Population Estimates:** At this time, it is estimated that the average in-center population will be 3,686 residents and that a **net reduction of 50 residents** will occur during 2002-2003 for a year-end population of **3,636 residents (as of June 30, 2003)**. **This population includes 415 individuals with a forensic designation.** Based on the CDER process, the residents continuing to reside at the DCs will require more intensive care.

The budget assumes the following population information for each facility:

Developmental Center	Estimated 2002-03 Population	Change from Current Year
Agnews	440	-33
Canyon Springs	59	1
Fairview	794	4
Lanterman	622	-10
Porterville	830	1
Sierra Vista	57	7
Sonoma	834	-20
TOTALS	3,636	-50

It should be noted that these caseload adjustments will be updated at the May Revision.

**Governor's Proposed Budget:** The budget proposes a net decrease of \$354,000 (increase of \$273,000 General Fund and a decrease of \$627,000 in reimbursements) due to a projected decrease of 50 residents at the DCs. This funding estimate assumes a net increase of 12 Non-Level-of-Care positions (i.e., a decrease of 25 Level-of-Care positions and an increase of 37 Non-Level-of-Care positions). **Based on the CDER process, the residents continuing to reside at the DCs will require more intensive care.**

**Subcommittee Request and Questions:** The Subcommittee has requested the DDS to respond to the following questions:

- 1. Please provide a **brief summary** of the proposal.
- 2. Please provide a **brief update regarding the forensic population.**

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**Budget Issue:** Does the Subcommittee want to approve the proposed adjustments pending the receipt of the May Revision?

## **2. Non-Level of Care Staffing Reduction**

**Background and Governor's Proposed Budget:** The DDS states that due to the fiscal situation, it was necessary to identify functions and operations that could be eliminated to assist in addressing the shortfall in revenues. As such, the DDS analyzed positions across the system that could be eliminated without posing significant risks to consumer health and safety, or loss of federal certification or state licensing.

**The budget proposes to eliminate 22 Non-Level-of-Care positions for a reduction of \$1.1 million (\$747,000 General Fund).** These positions include: 7 Office Technicians, 5 Facility Environment Audit Technicians, 5 Assistant Seamers, 1 Library Technician, 2 Audio Visual Equipment Technicians, and 2 Upholsters.

**Subcommittee Request and Question:** The Subcommittee has requested the DDS to respond to the following question:

- 1. Is it likely that any additional excess positions will be identified at the May Revision?

## **3. Developmental Center and Small Facility Certification & US Department of Justice Investigations (re: Civil Rights of Institutionalized Persons Act—CRIPA)**

**Background-Certification:** The federal CMS has final authority for approving Medicaid-funded (Medi-Cal) services in state-operated institutions. As such, the DCs must be federally certified as Intermediate Care Facilities for the Mentally Retarded (ICFs/MR) in order to receive federal matching funds under Medi-Cal. Generally, the Department of Health Services (DHS) conducts certification surveys for the federal government at their direction.

**Over the past several years, the DCs have experienced considerable problems in meeting certification requirements.** In order to improve the quality of care for residents and to correct deficiencies, a four-year phase-in plan to increase DC staff and address a series of related issues was initiated through the Budget Act of 1998. Specifically, this initiative was to address active treatment needs, behavioral management concerns, educational and vocational needs, ancillary medical assistance needs, and related clinical issues.

Though considerable resources and effort have been invested, the DCs continue to have issues regarding certification deficiencies. The DDS states that they are continuing a multifaceted approach to improve the conditions at all of the DCs.

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**Current Year Budget Problems—Certification Concerns:** General Fund support of \$13.7 million is being provided in the current year due to the loss of federal funds from certification concerns.

Specifically, Porterville's Secure Treatment Program was decertified as of September 1, 2001. This decertification results in the loss of \$13.1 million in federal support for the current year. According to the DDS, it is likely to take up to 24 months to reacquire certification of this program.

In addition, the Canyon Springs facility has not yet received certification. The DDS anticipated that this facility would obtain certification by February 1, 2002. However, the DDS notes that the department and DHS recently finalized an agreement that this particular facility is governed by Title 22 regulation and subsequently, eligible for Medicaid reimbursement on an actual cost basis. This agreement is currently under review by the Department of General Services. It is anticipated that the DDS will request a DHS certification review in July, 2002.

**Background—Department of Justice Reviews To Begin in April 2002:** The federal Department of Justice (DOJ) has notified the DDS that it will be reviewing both Sonoma DC and Agnews DC in April. They have requested preliminary data regarding both facilities and will be preparing a response to the state regarding their reviews at a date which is currently unknown. The DDS notes that the DOJ has contacted other states and will be reviewing other long-term care facilities serving individuals with developmental disabilities.

The federal DOJ initiated reviews at Agnews DC and Sonoma DC in late 1992. Based on these reviews, the DOJ noted conditions that required remediation, including issues pertaining to clinical staffing, active treatment and Habilitative specialty areas. Subsequent visits were conducted in 1995 and 1997. During these later visits the DOJ noted improvements but was still concerned about understaffing at Sonoma DC. In response to the DOJ, the DDS did enact certain reforms, including completion of clinical initiatives involving a consultant (Columbus Medical Services).

**Governor's Proposed Budget:** The budget provides a total of \$15.3 million (General Fund) to backfill for the lack of certification at both the Porterville Secure Treatment Facility and at Canyon Springs.

**Subcommittee Request:** The Subcommittee has requested the DDS to respond to the following questions:

- 1. Please provide an update on the status of certification for each of the DCs.
- 2. What is the status of certification at Canyon Springs? Will it be certified in the budget year?
- 3. Please provide a brief update on the CRIPA review at Sonoma DC.

**Budget Issue:** Does the Subcommittee want to approve or modify the budget?

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#### **4. Janitorial Health Benefits and Contracts**

**Background and Governor's Proposed Budget:** The budget is proposing an increase of **\$8.8 million (\$5 million General Fund) due to increased costs associated with the janitorial contracts at the DCs.** Specifically, the health benefit costs for the janitorial contracts are estimated to be \$1.9 million and the janitorial services contracts are \$14.2 million for total expenditures of \$16.1 million. Existing statute requires the payment of health benefits for these contract employees.

**Subcommittee Request and Question:** The Subcommittee has requested the DDS to respond to the following question.

- 1. Please provide a **brief summary** of the proposal.

*(This completes the discussion regarding the Developmental Centers.)*

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## **D. ITEMS FOR DISCUSSION—COMMUNITY-BASED SERVICES**

### **Overview of the Budget for Community-Based Services**

The DDS contracts with 21 not-for-profit Regional Centers (RCs) which have designated catchment areas for service coverage throughout the state. The RCs are responsible for providing a series of services, including case management, intake and assessment, community resource development, and individual program planning assistance for consumers. **RCs also purchase services for consumers and their families from approved vendors and coordinate consumer services with other public entities.**

**The budget proposes expenditures of \$2.215 billion (\$1.6 billion General Fund) for community-based services, provided via the RCs, to serve a total of 182,230 consumers living in the community.** This reflects an increase of \$139.9 million (total funds), or 6.7 percent, over the revised 2001-2002 budget.

**The funding level includes \$393.1 million for RC operations and over \$1.784 billion for local assistance,** including funds for the purchase of services for consumers, program development assistance, the Early Start Program, and habilitation services provided by the Department of Rehabilitation.

### **Historical Funding Trends & Legislative Analyst Office Comment** **(See Hand Out)**

**The budget for the Regional Centers has *more than doubled* from about \$908.2 million in 1995 to about \$2.2 billion as proposed for 2002-03. General Fund expenditures have also more than doubled, from about \$600 million in 1995 to just over \$1.6 billion as proposed for 2002-03.**

**As noted by the Legislative Analyst's Office (LAO), these budget increases represent an average annual growth rate in total spending over 7 years of almost 14 percent.** About 5 percent of this growth is attributable to caseload, 3 percent for inflation, and 6 percent represents several other factors, such as growth in the utilization of services and cost adjustments which exceeded the rate of inflation.

**The LAO also notes that the rate of growth proposed for the budget year is still greater than for most other major health and social services caseload programs. Unlike most health and social services provided by the state, the amount of services provided by the Regional Centers is not limited through statewide standards.**

Further, eligibility to receive both case management and **community services does not depend on a "means" test or determination of financial need that is based on income level or assets.** With a few minor exceptions, **services are provided without any requirement that those benefiting from the services, and who have the ability to contribute, pay a share of cost.**

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## 1. **Base-Line Estimate for the Regional Centers—Caseload and Utilization**

**Background:** The purchase of services (POS) portion of the Regional Center budget accounts for about **80 percent** of total expenditures.

For budget development and allocation purposes, the **POS budget consists of four key categories—Residential Placement, Day Programs, Transportation and Other Services which includes health care, respite, support services and other miscellaneous services. The budget proposes the following for these service categories:**

• Residential Placement	\$594 million
• Day Programs	\$554 million
• Other services (respite, support services, health care & others)	\$535 million
• Transportation	<u>\$154 million</u>
Subtotal	\$1.836 billion
POS Savings	- <u>\$52 million</u>
<b>Proposed TOTAL</b>	<b>\$1.784 billion</b>

**Governor’s Proposed Budget:** The *base-line* budget estimate for the Regional Centers contains the **following key adjustments:**

- **Caseload and Service Utilization Adjustments:** The budget proposes **an increase of \$151.7 million (\$100.7 General Fund) to provide for an increase in caseload of 9,725 consumers, as well as increased utilization of purchase of services (POS) based on consumer needs.** Of this amount, \$137.9 million is for the POS and \$13.8 million is for Regional Center Operations.

**With respect to the \$137.9 million for POS:**

- **(1)** \$54.2 million, or 39 percent of the POS increase, is for “Other Services” (health care, in-home respite, out-of-home respite, support services and miscellaneous services);
- **(2)** \$36.4 million, or 26 percent, is for Day Programs;
- **(3)** \$34.8 million, or 25 percent is for Residential Placement, primarily for Community Care Facilities; and
- **(4)** \$12.4 million, or 8 percent is for Transportation.

The caseload figure reflects **an overall increase of almost 6 percent**, and an increase of over 12 percent for high risk infants which has been growing rapidly over the past several years.

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**With respect to the \$13.8 million for Regional Center Operations,** about \$11 million is requested to fund 248 positions with the remaining amount for operating expenses.

- **Downsizing of Large Facilities:** The federal CMS will not provide federal reimbursement to the state under the Waiver for consumers who reside in large (16 or more beds) congregate living facilities. As such, the DDS has been working with providers and the DHS convert certain facilities to smaller ones facilities.

The budget contains a total of **\$4.5 million (total funds)** to provide funding to convert certain large facilities to smaller, more home-like four- to six- bed facilities. Generally, this proposal continues downsizing efforts initiated in the Budget Act of 2000.

- **Special Incidence Reporting:** The budget provides **an increase of \$2 million** to fund additional staff to meet the requirements of the Special Incident Reporting system. Generally, under this system Regional Centers will be responsible for investigating, reporting and following-up on special incidents for Regional Center consumers living in the community. Total expenditures for the budget year will be \$9.7 million, including \$1 million for a Risk-Assessment Contractor.
- **Pass-Through of Federal SSI Increase to Community Care Facilities:** The state provides payment to Community Care Facilities (CCFs) through the Regional Centers. Generally, the reimbursement consists of the Supplemental Security Income/State Supplemental Payment (SSI/SSP) amount and a state supplement which pays the remaining amount. In the event of a cost-of-living adjustment for the SSI, the increased federal funds have been used to off-set General Fund costs in lieu of providing a rate increase for providers. In other words, the SSI increase was not “passed-through” to the provider. **Since the Budget Act of 1998, annual SSI/SSP increases have been passed through to CCF providers.**

The January budget provides a **total of \$5.2 million** to continue to pass through the SSI/SSP increase to Community Care Facilities (CCFs), effective January 1, 2003. According to the DDS, this estimate was based on the assumption that both the SSI and SSP portions would receive a COLA increase on January 1, 2003. **However, since the Governor’s budget does not provide a COLA for the SSP portion, the DDS budget is in error. The adjustment should reflect an increase of about \$1 million (for the SSI portion only).**

About 20,800 people with developmental disabilities reside in 4,500 CCFs licensed by the Department of Social Services. As such, over 50 percent of consumers living in out-of-home placement settings reside in CCFs.

**Subcommittee Request and Questions:** The Subcommittee has requested the DDS to respond to the following questions:

- **1. Please provide a brief summary of the baseline adjustment.**

**Budget Issue:** Does the Subcommittee want to adopt or make technical changes to fund service utilization and estimated caseload increases?

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## **2. Increase for Individuals Diagnosed with Autism**

**Background:** **Autism is a disability of uncertain etiology.** Generally, it is defined as a syndrome first appearing in the early years of life-- usually before age three-- which is characterized by extreme withdrawal, language disturbance, inability to form affective ties, frequent lack of responsiveness to other people, monotonously repetitive behaviors, inappropriate response to external stimuli and an obsessive urge for maintaining sameness.

**Autism is a spectrum disorder and it is always a retrospective diagnosis.** It frequently occurs in association with other symptoms, specific disorders and developmental disabilities. **While there is no known cure for Autism, improvement occurs with early diagnosis and proper intensive early intervention.**

According to the DDS, the entire population of individuals diagnosed with autism served by the RCs doubled in the four years between 1997 and 2001. It is estimated that **22,690 individuals with Autism are estimated to be requesting services in the budget year. This is a 16 percent increase in caseload over the current year. About 60 percent of the total population of nearly 18,000 persons with autism, including Pervasive Developmental Disorders) are less than 11 years old.**

The DDS believes that consumers being diagnosed with autism have been increasing significantly for the following reasons:

- The definition of autism is broader and parents are more aware of autistic symptoms and therefore, more likely to refer for a diagnosis.
- Increased awareness of the diagnosis and better clinical screening on the part of medical professionals and others.
- The emphasis on Early Start screening, referral and intervention has increased the number of children requiring Regional Center services.
- Other unexplained reasons that are being researched statewide, nationally, and internationally.

**Service needs differ greatly among children with autism.** Each treatment must be individualized—an individual child's needs must drive the specific method of intervention. Treatment focuses on the child's developmental needs, differences in nervous-system capacities and relationships with treatment providers. The DDS states that intensive behavioral intervention programs are relatively expensive compared to traditional forms of intervention but that they are generally effective and clinically supported by scientific literature.

Findings from longitudinal studies suggest that without effective intervention, it is likely that a substantial majority of individuals with autism would require Regional Center services throughout their lives.

**Budget Act of 2001—Procedures and Training:** Through the omnibus health trailer bill of the Budget Act of 2001, language was crafted which required the DDS to **(1)** develop

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evaluation and diagnostic procedures for the diagnosis of autism disorder and other autistic spectrum disorders by April 1, 2002, and (2) develop a training program for Regional Center clinical staff in the utilization of these procedures by July 1, 2002.

**Governor's Proposed Budget:** The budget contains **an increase of \$17.2 million in purchase of services funds to recognize increased expenditures attributable to the caseload growth of individuals diagnosed with Autism and the corresponding utilization of intensive services.** For example, intensive behavioral intervention programs and in-home respite assistance are services that are generally utilized more frequently in this population.

**Subcommittee Request and Questions:** The Subcommittee has requested the DDS to respond to the following questions.

- **1. Please provide an update on the status of developing evaluation and diagnostic procedures for autism, and also on the upcoming Regional Center training.**

**Budget Issue:** Does the Subcommittee want to approve the proposed increase for services to individuals with autism?

### **3. Community Placement Plan—Revised Process & Funding Increase**

**Background:** Existing statute requires the DDS to ensure that individuals with developmental disabilities live in the least restrictive setting which is appropriate to their needs.

The **Community Placement Plan (CPP)** is designed to assist Regional Centers in providing necessary services and supports for individuals to, when appropriate, move from state Developmental Centers (DC) to community-based services. It will also provide the resources necessary to stabilize the selected community living arrangements of individuals who have been referred to the Regional Resource Development Project (RRDP) for alternatives to admission to a DC (i.e., deflection).

From a statewide perspective, the **DDS' priorities include developing resources that facilitate community living options for:**

- Children, adolescents, and young adults, especially those with complex behavior challenges;
- Individuals who've recently moved to a Developmental Center;
- Individuals for whom the court has ordered community placement but sufficient community resources are unavailable to meet their needs;
- Groups of friends who want to live with one another in the community, and have been referred to the RRDP

**It should be noted that these priorities are not intended to prohibit any individual who wants to move from a DC from doing so.**

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**Revised CPP Process:** Beginning in the budget year, the DDS proposes to change the way it estimates funding for the CPP. In the past, the DDS provided funding based on estimated placements as projected by the Regional Centers. As such, there was minimal accountability under this old method.

**Under the revised CPP process, the Regional Centers must provide the DDS with detailed plans regarding:**

- The individual consumers, needed resources, services and supports who will be moved from the DCs;
- The individuals referred to RRDP due to unstable community living arrangements and what their needed resources are; and
- The individuals who will be assessed for community placement.

**These plans will be updated *twice* annually to ensure continuity of services and appropriate funding levels.** The DDS states that they will be working closely with the RCs, individuals and their families, each RRDP and the DCs to coordinate the involvement and support to implement the plans that will result in individuals living in community settings.

**Governor's Proposed Budget:** The budget contains **an increase of \$20.5 million, for total funds of \$50.2 million, to provide services and improve the community placement planning process.**

**The \$50.2 million funding level assumes that:**

- 260 consumers are assessed for placement (\$633,000 total funds);
- 205 consumers are placed in the community (\$16 million);
- 183 consumers are continued in their placement (\$18.7 million);
- 98 consumers are “deflected” (i.e., not admitted to a state Developmental Center) (\$5 million);
- Start-up costs for 71 new facilities/programs and program expansions occur (\$4.2 million); and
- Regional Center operations expenditures of \$5.7 million for resource development, consumer assessments, case management, crisis service teams, and placement activities.

**The proposed \$20.5 million increase is allocated as follows: (1) \$2.2 million for Regional Center operations, (2) \$9.1 million for placement costs, (3) \$5.6 million for continuation costs for prior year placements, (4) \$2.9 million for facility start-up costs, and (5) \$633,000 for assessment costs.**

**Subcommittee Request and Questions:** The Subcommittee is requesting the DDS to respond to the following questions.

- **1. Please provide a brief overview of the revised CPP process.**
- **2. Since this will be an ongoing process and accountability will be crucial to success, would it be appropriate to codify both the CPP process, as well as**

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the **Regional Resource Development Program (RRDP)** piece since it is a component of CPP?

**Budget Issue:** Does the **Subcommittee want to (1)** approve the increased funding for the revised CPP process, and **(2)** adopt placeholder trailer bill language to codify the revised CPP process, require that funds appropriated for CPP can only be used for that purpose, and codify the existing Regional Resource Development Projects (RRDP)?

#### **4. Home and Community-Based Services Waiver (ISSUES “A” to “B”)**

**General Background-- The Home & Community-Based Services Waiver:** Under this Waiver, California can offer “nonmedical” services to individuals who would otherwise require the level of care provided in a hospital, nursing facility, or intermediate care facility for developmental disabilities. Use of these “waiver services”, such as assistance with daily living skills and day program habilitation, enable people to live in less restrictive environments such as in their home or at a Community Care Facility.

California’s Waiver is one of the largest in the nation, both in number of recipients and expenditures. However, it ranks 39<sup>th</sup> in federal per capita share at \$7.13, as compared to Rhode Island which ranks first at \$67.71.

The Waiver has allowed the state to conserve General Fund dollars by shifting Medicaid eligible beneficiaries to waiver services while granting flexibility and assisting the state in complying with the Coffelt Settlement in the mid-1990’s.

Generally, there are four basic criteria required for a consumer to be enrolled on the Waiver. These are that the individual:

- (1) Be enrolled for full-scope Medi-Cal;
- (2) Meet certain level-of-care eligibility criteria;
- (3) Live in an eligible residential environment (i.e., not in a health facility); and
- (4) Choose enrollment.

**Historical Perspective and Past Federal Concerns:** The Waiver was first established in 1982. From 1982 through 1992, California was restricted by the federal government to having only 3,360 enrolled consumers. From 1992 through 1997, the Waiver caseload increased up to 35,105 consumers, and the amount of federal reimbursement more than doubled.

However, in 1997 the federal government conducted an extensive review of the Waiver and identified serious health and safety concerns, as well as significant issues pertaining to program monitoring, quality assurance, and residential care. Due to these concerns, the DDS and Department of Health Services (as the state’s Medicaid agency) had to implement extensive program compliance measures

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relating to consumer health and safety, and had to certify Regional Centers as meeting program “compliance” on a case by case basis.

As a consequence, the state’s Waiver enrollment was frozen (or “capped”) at its existing level of 35,105 consumers in December 1997. In addition, consumers coming off of the Waiver could not be replaced. As such, the caseload of the Waiver dropped by over 5, 600 consumers and cost the state about \$51 million in federal funding (which was backfilled using state General Fund support).

In September 1998, the Waiver renewal request was approved for a three-year period, effective as of October 1998. **However, this approval was contingent upon the state’s agreement to not expand the cap to include new consumers and to proceed with other DD system improvements.**

Through an extensive process in working with the federal CMS, Regional Centers and other involved parties, **the DDS was able to have 19 of the 21 Regional Centers certified for Waiver compliance and no longer subject to the cap on consumer enrollment as of October 2000. In addition, one Regional Center can only bill consumers already on the Waiver, and the remaining Regional Center cannot bill for anyone until certain fiscal concerns are ameliorated.**

**Waiver Renewal and State Assurances (See Hand Out):** The Waiver has been renewed several times, **most recently in October 2001. Under this most recent Waiver renewal, the federal CMS provided California with a 5-year operation period. In order to obtain this federal approval, the state had to provide assurances that issues identified in the 1997 federal audit had been remedied and would continue to be addressed through specific measures.**

**Governor’s January Proposed 2002-03 Budget:** The budget assumes total **expenditures of \$597.2 million** (\$296.5 million General Fund and \$300.7 million in reimbursements from the DHS which are federal Title XIX Medicaid funds) **to serve only 32,906 consumers as of June 30, 2003.** This reflects an increase of only \$24.6 million (total funds) over the revised current-year budget.

**This January budgeted level of funding assumes the following:**

- No freeze on admissions for those 19 Regional Centers certified as being in compliance. **However, no new growth is assumed because the DDS states that Regional Centers are reporting increasing difficulty in meeting their existing mandates due to under funding in their operations budget.** As such, they contend that this will affect their ability to add and maintain consumers to the Waiver.
- South Central Los Angeles Regional Center cannot bill for any Waiver consumers until their fiscal problems are corrected. An audit and Waiver compliance review are now being conducted to determine their progress.
- Regional Center of the East Bay can only bill for those consumers already enrolled in the Waiver, but not any new individuals.

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**April 1 Finance Letter—Significant Changes From Budget:** The Subcommittee is in receipt of a Finance Letter which proposes to significantly amend the assumptions for the Waiver for both the current year and the budget year. **These proposed changes are outlined below.**

### **ISSUE “4 A”—Proposed Current Year Changes for the Waiver**

**Finance Letter for the Current Year:** The Administration is proposing to **increase the level of federal reimbursement for the Waiver by \$48 million (federal funds) and to decrease state General Fund support by almost \$39.6 million for total net expenditures of \$8.4 million.**

**This funding shift assumes the following:**

- 4,233 consumers were added to the Waiver in 2001 (during August through December 2001 and will continue on). **(\$42.8 million in increased federal funds.)**
- 9,291 consumers will be added to the Waiver in 2002 (from April through June 2002). **(\$32.5 million in increased federal funds.)**
- Adjust the Waiver growth assumptions as contained in the Governor’s January budget for the revised current-year estimate (technical adjustment). **(\$24.8 million in reduced federal funds.)**
- Provide for a **five percent adjustment** in the total amount to account for the potential of some consumers not being eligible for the Waiver. **(\$2.5 million in reduced federal funds.)**
- Proposes to **expend one-time only funds of \$8.4 million** for improving CADDIS and providing increased staff to the Regional Centers for Waiver enrollment functions. **(\$8.4 million in reduced funds.) (These are discussed below.)**

**Request to Fund the CA Developmental Disabilities Information System (CADDIS):** The department’s information processing system used by the Regional Centers needs to be modified to capture certain federal reimbursement information and to assure compliance with Waiver activities. According to the DDS, the new system-- the California Developmental Disabilities Information System (CADDIS)—**needs an additional \$4.4 million in order to complete the acquisition.** This funding request is based upon an approved Feasibility Study Report (FSR).

Specifically, CADDIS will allow for the collection of daily attendance information, consolidation of billing information across the Regional Center system and is generally designed to reduce billing errors and the likelihood for audit exceptions. The CADDIS will also be HIPAA compliant.

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**Request to Fund Regional Center Staff to Increase the Waiver Cap:** The DDS notes that adding and maintaining consumers on the Waiver requires the Regional Centers to conduct additional work. Further, they contend that past practice has shown that the Regional Centers are capable of adding consumers fairly quickly when resources are made available.

**The process to add a consumer to the Waiver includes:** (1) evaluating and verifying that the person meets the level of care required by the Waiver, (2) verifying Medi-Cal eligibility, (3) reviewing the consumer's file for compliance with Waiver protocol, (4) completing certification and choice of services forms, and (5) obtaining the consumer's/guardian's signature. **It is assumed that it takes about 8 hours of professional time to complete this process.**

**The DDS is requesting a one-time appropriation of \$4 million to provide for increased staffing at the Regional Centers to add consumers as appropriate onto the Waiver.** The basis for this funding amount is that **the DDS assumes that (1) 9,291 consumers will be added to the Waiver in the current year, (2) it takes 8 hours to add a consumer to the Waiver, (3) it will cost about \$57 per hour. (74,328 hours multiplied by \$57 = over \$4 million.)** (It should be noted that the DHS Medi-Cal billing schedule provides for a range of hourly billing rates for clinical personnel from \$40 to \$74 per hour.)

**Subcommittee Request and Questions:** The Subcommittee has requested the DDS to respond to the following questions:

- 1. Please **briefly** explain the current year Waiver caseload increase.
- 2. Please explain the **5 percent “error factor”**.
- 3. **How will the Regional Center one-time funding be allocated?**

**Budget Issue:** Does the Subcommittee want to **adopt the current year proposal to increase reimbursements (federal Title XIX funds from the DHS) by \$48 million, decrease General Fund support by \$39.6 million and provide \$8.4 million in one-time only funds to assist with specified Waiver activities?**

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## **ISSUE “4 B”—Proposed Budget Year Changes for the Waiver** **(3 discussion items—“4 B 1 to 4 B 3”)**

**Proposed Finance Letter (See Hand Out):** The Administration is proposing to (1) increase federal reimbursement by \$106.7 million, (2) decrease state General Fund support by \$91.5 million, and (3) expend \$15.2 million to fund specified items (to be discussed below). This proposed funding level assumes the state will meet a June 30, 2003 caseload cap of 46,447 consumers for the Waiver.

**This funding shift assumes the following:**

- The 13,524 consumers added onto the Waiver in the current year (as discussed above) will continue into the budget year. **(\$105.6 million in increased federal funds.)**
- Regional Center of the East Bay will meet all Waiver compliance requirements and will be able to obtain Waiver reimbursement for 931 consumers. **(\$6.3 million in increased federal funds).** This assumes an October 1, 2002 compliance date.
- 422 additional consumers have been identified for inclusion in the Waiver. (This excludes South Central Los Angeles and Regional Center of the East Bay.) **(\$340,000 in increased federal funds.)**
- Provides for a five percent adjustment in the total amount to account for the potential of some consumers not being eligible for the Waiver. **(\$5.6 million in reduced federal funds.)**
- **Proposes to expend \$15.2 million to provide for increased state support and Regional Center Operations support.** (These items are discussed below under issues “4 B 2” and “4 B 3”).

## **ISSUE “4 B 1”—Update on Future Options to Capture More Federal Funds**

**Background:** The DDS has hired a **consultant who is conducting expensive research** to discern how the state may obtain increased federal financial participation in the developmental disabilities services arena. **Generally, there are three broad approaches or phases that various options may fall under. These are:**

- What can be done under the **existing Waiver**;
- What can be done with a **Waiver amendment** (such as inclusion of other services, expanding the cap for enrollment, redefining rate methodologies, and others);
- What can be **done in other venues**, such as in the long-term care area (i.e., ICF and Developmental Centers), and expanding the Targeted Case Management Program, or others.

According to the DDS, **the consultant will be producing a workbook** which will contain options and suggestions on crafting changes in order to increase federal financial participation. **It is anticipated that information will first be coming forth in early summer.**

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**Subcommittee Request and Questions:** The Subcommittee has requested the DDS to respond to the following questions:

- 1. Please provide a **brief description of key items** that the consultant is reviewing.
- 2. Is it **highly probably that considerably more federal funds** will be available in the 2003-04 budget cycle (i.e., budget year plus one)?

**Budget Issue:** Does the Subcommittee **want to adopt any uncodified trailer bill language expressing its intent** on how to utilize additional funds in the future?

**ISSUE “4 B 2”—Proposed Regional Center Operations Adjustments—  
Budget Year**

**Proposed Finance Letter:** The DDS is proposing to provide an ongoing increase of \$15.2 million for Regional Center Operations. **This consists of two items--\$1.9 million for Regional Center staff to coordinate the management of federal programs, including the Waiver, and \$13.3 million to provide increased funding for rent.**

**Background on Rent Request:** Generally, the department allocates the Regional Center Operations funds based on the “**Core Staffing Model**”, special allocations, and prior year expenditures.

The “**Core Staffing Model**” formula used by the DDS needs to be updated. As noted in the Citygate Associates report entitled *Regional Center Core Staffing Study* (September 1999), as well as analyses conducted by the Bureau of State Audits, and the Association of Regional Center Agencies, the model is out of date. For example, it has not accounted for increases in the cost of living for many years (**such as with salary adjustments, supplies, postage, energy, leased space/rent, computers, and office commodities**). **This, coupled with the unallocated reductions of the early 1990’s, has caused Regional Centers to hold positions vacant.**

**Many RCs have expressed concerns about their ability to hire and retain qualified employees, especially with the need to maintain a caseload ratio of 62 to 1 (consumers to case manager).** To recruit and retain qualified personnel, Regional Centers must often pay salaries beyond those utilized in the formula.

**The DDS states that the Core Staffing Model does not provide the funding necessary for rent costs incurred either. Due to this short fall, the Regional Centers are compelled to hold positions vacant above the budgeted salary savings requirement. Specifically, Regional Centers have to keep vacant about 266 positions to compensate for the funding gap.**

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In addition, ARCA as well as several RCs note that the cost of doing business is higher in certain geographic areas. They contend that certain adjustments should be made to reflect the needs of some high cost areas.

**The DDS is therefore proposing to provide \$13.3 million in increased funding for rent. This level of funding is equivalent to the cost of what the state would pay if it were renting the space (based on square footage, location and related factors.)**

**Background on Federal Program Compliance:** The existing Core Staffing Model does not currently recognize the additional workload associated with the overall management of federal programs (such as the Waiver, Nursing Home Reform, Targeted Case Management). **As such, the DDS believes that an increase of \$1.9 million is warranted to fund one Federal Program Coordinator position at each Regional Center and a total of 5 secretarial positions system wide.**

**Subcommittee Request and Questions:** The Subcommittee has requested the DDS to respond to the following questions:

- **1.** What is the intent of the Administration in providing increased funding for rent? Is it to reduce the salary savings level?

**Budget Issue:** Does the Subcommittee want to adopt **(1)** the \$15.2 million increase for Regional Center Operations as specified, and **(2)** uncodified trailer bill language to clarify the intent of the appropriation?

#### **ISSUE “4 B 3”—Proposed Headquarters Adjustments—Budget Year**

**Proposed Finance Letter:** The DDS is proposing to provide **an ongoing increase of \$2.1 million (\$1.6 million General Fund)** to fund various support functions at Headquarters. Specifically, the following adjustments are proposed:

<b>Proposal</b>	<b>Total Funds</b>	<b>General Fund</b>	<b>Positions</b>
1. Federal Billing System	\$250,000	\$127,000	3
2. Audit Compliance	\$136,000	\$70,000	2
3. Risk Management--Clinical	\$181,000 revised to \$143,000	\$92,000 revised to \$73,000	1
4. Life Quality Assessment	\$76,000	\$39,000	1
5. Large Facility Downsizing	\$76,000	\$38,000	1
6. Enhance Federal Revenue	\$322,000	\$163,000	4
7. Reduce Salary Savings	\$1,073,000	\$1,073,000	19.6 personnel years (PY)
<b>TOTALS</b>	<b>\$2,114,000</b>	<b>\$1,602,000</b>	<b>12 positions &amp; 19.6 PYs</b>

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**Background—Federal Billing System:** In order for the state to be reimbursed by the federal government, the state must bill for all eligible services for Waiver participants. According to the DDS, billing data must match information contained in the Medi-Cal MEDS system as well as the DDS data system. **Inconsistencies between these two data sets must be resolved for the Waiver eligible costs to be submitted to the federal government. As such, data errors must be resolved or significant federal funds can be lost.**

**DDS states that in reviewing prior year data, data error resolution had to be performed on about 6 percent of the Regional Center expenditures.** They contend that with additional individuals being added to the Waiver, there will be an increase in workload associated with data error resolution. **They are requesting 3 positions—a Data Base Administrator, and two Associate Information System Analysts—for this purpose.**

**Background—Audit Compliance:** The DDS is requesting two positions **to provide oversight for the Regional Centers and ensure compliance by the DDS with certain federal Office of Management and Budget (OMB) requirements.** The DDS notes that the federal CMS has withheld funding for two Regional Centers (South Central Los Angeles and Regional Center of the East Bay) until the DDS provides assurance that various conditions are met.

**Background—Risk Management/Clinical:** A Medical Consultant position is being requested to (1) provide advice and technical assistance to the Waiver monitoring and quality assurance staff on health issues, (2) serve as the primary liaison with medical professionals at the Regional Centers, and (3) provide medical direction and consultation for the Early Start Program.

**It should be noted that the DDS acknowledges an overstatement of cost for the Medical Consultant position. The actual cost should be \$143,000 (\$73,000 General Fund). As such, the budget needs to be reduced by \$19,000 General Fund to correct for this miscue.**

**Background—Life Quality Assessment:** Existing statute requires the state to conduct Life Quality Assessment activities. The life quality assessment focuses on the consumer and the effects of services and supports for each individual. Presently, the DDS contracts with the Organization of Area Boards to conduct the assessments at least once every three years for each consumer living in certain living arrangements.

The DDS is requesting a position to (1) respond to Regional Centers and the Area Boards to problem solve implementation issues and conduct dispute resolution per the interagency agreement for Life Quality Assessment functions, (2) review and revise Life Quality Assessment training materials for Regional Center vendors, and (3) conduct periodic on-site reviews of each Area Board's implementation of the Life Quality Assessment, and (4) provide training and technical assistance to Regional Centers, provider groups, and Area Boards regarding Life Quality Assessment, including reporting of alleged violations of civil and service rights.

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**Background—Large Facility Downsizing:** The federal CMS will not provide federal reimbursement to the state under the Waiver for consumers who reside in large (16 or more beds) congregate living facilities. As such, the DDS has been working with providers and the DHS convert certain facilities to smaller ones facilities. Currently, about 1,030 consumers still reside in large facilities for which the state is receiving no federal reimbursement.

The DDS is requesting a position to conduct various functions pertaining to downsizing large facilities, including assisting Regional Centers and providers in developing and reviewing plans for conforming to Waiver requirements, and provide assistance to effect the implementation of facility plans for qualifying.

**Background—Enhance Federal Revenue:** The DDS is requesting four positions—a Staff Manager I, two Analysts, and one Staff Information Systems Analyst--to pursue new federal revenue sources and employ more effective methods for maximizing federal revenues. The DDS believes they can capture from one to five percent more in federal reimbursement, or from \$3 million to \$15 million, with these requested positions.

Key functions of these positions will be to research federal funding claiming methodologies, analyze other state's Waivers and methodologies, develop recommendations for changes to enhance federal financial participation, develop proposals, and craft regulation changes as necessary to implement.

**Background—Reduce Salary Savings:** The DDS is requesting **an increase of \$1.1 million for salary savings relief**. They maintain that the department cannot fill positions without relief from the existing salary savings requirement which is 9 percent. The proposed increase in funding will reduce the salary savings requirement to about 5 percent. DDS contends that this will allow existing authorized positions currently held vacant for salary savings to be filled to continue mandated operations within the support area and to ensure that federal funding is maximized and maintained.

**Subcommittee Request and Questions:** The Subcommittee has requested the DDS to respond to the following questions:

- 1. Please provide a **brief overview** of the proposal.
- 2. Please explain **why the 5 percent adjustment factor** is still assumed when positions are being added to capture more federal funds and to cleanse data?
- 3. **Does the budget assume a July 1 implementation period for the positions as well as salary savings level?**

**Budget Issue:** In addition to the **technical adjustment needed** for the Medical Consultant position, does **the Subcommittee want to make any further adjustments in light of the fiscal situation?**

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**5. Administration’s Proposal for Statewide Purchase of Services Standards**  
**(See Hand Out)**

**Background:** The Regional Centers are responsible for providing a series of services, including case management, intake and assessment, community resource development, and individual program planning assistance for consumers. **Regional Centers also purchase services for consumers and their families from approved vendors and coordinate consumer services with other public entities.**

**The Governor’s budget proposes to expend \$1.784 billion for Regional Center’s to purchase services for consumers.**

**As recognized in the Lanterman Act, differences (to certain degrees) may occur across communities (Regional Center catchment areas) to reflect the individual needs of the consumers, the diversity of the regions which are being served, the availability and types of services overall, access to “generic” services (i.e., services provided by other public agencies which are similar in charter to those provided through a Regional Center), and many other factors.**

The DDS, in consultation with the Association of Regional Center Agencies, annually allocates POS funds through a contract process in which each RC receives a base allocation and then subsequent allocations as determined by the DDS. **The allocation of POS funds is primarily based on the previous year’s contract level plus growth which may not be fully reflective of consumers needs in some areas.**

**Comments from the Legislative Analyst’s Office:** In her Analysis, the LAO notes that the absence of statewide standards has created wide variances across Regional Centers in the delivery of services. **As identified in a Bureau of State Audits Report, Regional Center consumers with similar needs have been provided significantly different levels of financial, clinical, and social supports through the program.**

**This report compelled the Legislature to request the DDS to conduct a more comprehensive analysis—Purchase of Services Study #1—which likewise found some significant disparities among the Regional Centers in both the extent and frequency of the services provided.**

**The LAO contends that without statewide standards on the availability of services, General Fund support has grown according to demand, not according to any predetermined policy or strategy to allocate dollars for services deemed to have the highest priority or the greatest effectiveness.**

**Governor’s Proposed Budget):** The budget is proposing (1) a reduction of \$52 million (General Fund), or less than 1 percent of the POS budget, (2) trailer bill language to provide the DDS with the authority to promulgate emergency regulations to craft statewide standards for POS, and (3) trailer bill language that amends existing statute to eliminate the review of Regional Center POS policies by the DDS.

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**Overview of Trailer Bill Language—Statewide Standards for POS (See Hand Out):**

The Administration proposes to **add Section 4631.5** to the Welfare and Institutions Code to develop and implement statewide standards for POS. **It should be noted that this language contains a sunset date of July 1, 2005. Generally this language:**

- Provides the DDS with **emergency regulation authority** to promulgate regulations (within 90 days of passage of the Budget Act) governing POS.
- Articulates a series of principles with respect to individual POS determinations.
- Provides a framework that would address the following:
  - Standards which are **consistent throughout the state;**
  - **Parameters for the type, amount, duration, and intensity of specified services and supports;**
  - The use of all possible alternative sources of funding before using Regional Center funds (i.e., use generic services);
  - **An exception process;**
  - Establish procedures for consistent application of the standards;
  - Mechanisms to maximize the capture of federal funds; and
  - **Not alter a consumer's eligibility for services or adversely affect consumers' health and safety.**
- Sunsets as of July 1, 2005 and is repealed as of January 1, 2006.

**Proposed Amendments to Existing DDS Oversight of Regional Center POS Policies:**

As part of the budget proposal, **the Administration is also proposing to amend Section 4434 of W&I Code to eliminate the requirement for the DDS to review and approve all new and revised Regional Center POS policies.**

**In lieu of existing statute which requires collection and review of these materials, the newly proposed language is (1)** permissive (uses the term “may” versus “shall”), and **(2)** makes reference to “operating policies and procedures”, **not** service guidelines and other policies utilized by the Regional Centers when determining the service needs of the consumer as existing law requires. This permissive language is vague and does not convey the same level of oversight responsibility as existing law provides.

**Constituency Concerns:** Constituency groups are concerned with the proposal for several reasons. First, the Association of Regional Center Agencies contends that the reduction is an “unallocated reduction” and that the proposal would result in a reduction of services to consumers. Second, Protection and Advocacy Incorporated believes that the proposal would fundamentally change the Lanterman Act and that it would deprive consumers of their entitlement to services.

**In addition, concerns have also been expressed about the use of emergency regulations, with no sunset date on the urgency, as well as deletion of the oversight responsibility of the DDS to review the Regional Center's POS policies, even if statewide standards are developed.**

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**Subcommittee Request and Questions:** The Subcommittee has requested the DDS to respond to the following questions.

- 1. Please provide a **brief overview** of the proposal.
- 2. How was **the dollar amount derived**?
- 3. Please briefly explain the principles as contained in the legislation.
- 4. What would be the next steps in the process if this were adopted?

**6. Other Trailer Bill Language Proposed by the Administration**  
**(See Hand Outs)**

**Governor's Proposed Budget:** As noted in item 4 of the Consent Calendar, the Administration has proposed to amend the following sections of Welfare and Institutions Code.

- **Amend Section 4646** of W&I Code to change the review of individual program plans from an annual to a biennial process. **(Analyst position at \$70,000).**
- **Eliminate Section 4731** of W&I Code regarding the Consumer Rights Complaint process. **(Half-time Staff Counsel \$29,000 annually).**

With respect to Section 4646, the DDS proposes to amend the statute to go from an annual review of IPPs to a biennial process. **Specifically, the DDS proposes to include random reviews of Individual Program Plans (IPP) into the regular Waiver monitoring protocol used by the DDS and approved by the federal CMS. The DDS states that because the monitoring schedule is spread over a two year period, only half of the Regional Centers are surveyed in any given year.** Therefore in order to extend the review to all Regional Centers, the DDS conducts a desk review of a random sample of IPPs at the remaining Regional Centers.

SB 1038 (Thompson), Statutes of 1998, established the Consumer Rights Complaint process. **With respect to Section 4731 of W&I Code**, the DDS is proposing to eliminate this process. Currently a consumer or their representative (acting on their behalf) can file a complaint if they believe their rights have been violated. The initial complaint is filed with the Director of the Regional Center or Developmental Center and then if it is not resolved at this level, it is forwarded to the DDS for decision.

The DDS contends that this process is seldom used and that it is duplicative of existing regulations (Title 17, Section 50540).

**Protection and Advocacy Incorporated opposes elimination of the statute.** They contend the existing process is necessary, not duplicative, and in fact was approved by the Legislature to address shortcomings in Title 17 regulation. All consumers need the

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ability to file grievances without resorting to a full state level hearing (as directed by Title 17).

**Budget Issue:** Does the Subcommittee want to adopt or modify the budget request?

Subcommittee staff would recommend for the department to absorb the costs of these functions if it decides to retain existing statute. These are minor expenditures.

## **7. Pre-admission Screening for Non-Medi-Cal Nursing Facility Residents**

**Background and Proposed Finance Letter:** The federal Omnibus Budget Reconciliation Act (OBRA) of 1987 included reforms pertaining to nursing homes and long-term care facilities. Among other things, it requires the state to conduct initial Preadmission Screening and Resident Review (PASRR) mental retardation screening on all nursing facility residents.

In 1993 the DHS, as the sole Medicaid state agency, submitted a State Plan Amendment which required only Medi-Cal recipients admitted to a nursing facility under go a PASRR. **However in August of 2001, the federal CMS denied this approach because it excluded non-Medi-Cal recipients.**

**A Finance Letter is requesting an increase of \$502,000 (\$125,000 General Fund) to fund a half-time position at headquarters (\$35,00 total), positions at the Regional Centers, and contract costs to conduct various activities associated with the PASRR requirements for non-Medi-recipients.**

**Subcommittee Request and Questions:** The Subcommittee has requested the DDS to respond to the following question.

- 1. Please provide a **brief summary** of the proposal.

**Budget Issue:** Does the Subcommittee **want to approve the request?**

***(This completes the discussion regarding Community Services)***